

AMENDED IN SENATE APRIL 21, 2003

SENATE BILL

No. 915

Introduced by Senators Perata, Burton, and Torlakson
(Coauthors: Assembly Members Leno, Mullin, and Wiggins)

February 21, 2003

An act to amend Sections 66540.14, 66540.16, 66540.20, 66540.22, 66540.40, and 66540.72 of, *to add Section 66540.29 to*, and to repeal Section 66540.23 of, the Government Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

SB 915, as amended, Perata. San Francisco Bay Area Water Transit Authority.

Existing law creates the San Francisco Bay Area Water Transit Authority with specified powers and duties relative to the development of a plan for implementation and operation of a water transit system on San Francisco Bay. Existing law provides that the authority may not operate a water transit system until the plan has been statutorily approved by the Legislature. Existing law also provides that the authority shall be funded from appropriations in the annual Budget Act and imposes restrictions on the regional transportation funds that the authority may apply for to fund operation of the water transit system.

This bill would delete the requirement ~~for~~ that the authority's plan be statutorily approved prior to commencement of operation of the water transit system. The bill would delete the requirement to fund the authority through the annual Budget Act and would require that the authority be funded from ~~proposed increases in bridge tolls and various other funding sources, as proposed by SB 916.~~ The bill would revise other provisions relating to safety of vessel operations and air quality standards of vessels operated by the authority. ~~The bill would require~~

~~the Metropolitan Transportation Commission to consider the recommendations of the authority in programming certain transportation funds.~~ The bill would make other related changes.

Because the bill would impose requirements on the authority ~~and the Metropolitan Transportation Commission~~, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 66540.14 of the Government Code is
2 amended to read:

3 66540.14. There shall be a community advisory committee,
4 which shall meet on a regular basis, and which shall include one
5 member representing each local jurisdiction in which a water
6 transit terminal exists or is proposed, and one member
7 representing each special district providing public water transit
8 services. Unless appointed under subparagraph (B) of paragraph
9 (2) of subdivision (a) of Section 66540.2, one member shall be
10 appointed by the city council of each city in which a water transit
11 terminal is located or is proposed to be located, or by the county
12 board of supervisors if the terminal is located or is proposed to be
13 located in an unincorporated area, with one member appointed by
14 the Golden Gate Bridge, Highway and Transportation District.
15 The community advisory committee shall appoint one of its
16 members to the board.

17 SEC. 2. Section 66540.16 of the Government Code is
18 amended to read:



1 66540.16. (a) There shall be a technical advisory committee,
2 which shall meet on a regular basis, and which shall consist of
3 members representing local, regional, state, and federal agencies,
4 operating ground transportation agencies, and operating water
5 transit services.

6 (b) Additional members shall include at least one member who
7 represents each of the following interests: fish and wildlife,
8 recreational boating, private environmental protection entities,
9 business, real estate development, architecture, urban planning,
10 private sector vessel operators, and organized labor, as well as the
11 public at large.

12 SEC. 3. Section 66540.20 of the Government Code is
13 amended to read:

14 66540.20. (a) The authority shall prepare , adopt, and update
15 as required a San Francisco Bay Area Water Transit
16 Implementation and Operations Plan. The plan shall include all
17 appropriate landside, vessel, and support elements, operational
18 and performance standards, and policies. Plan updates shall be
19 subject to public hearings. Following the authority's submission
20 of a preliminary draft to the Legislature for review on December
21 12, 2002, the procedure regarding the plan shall continue as
22 follows:

23 (1) On or after the date of completion of all programmatic
24 environmental impact reports in connection with adoption of the
25 final plan, the authority shall submit the final plan to the
26 Legislature for review.

27 (2) Thereafter, the authority shall be authorized to operate a
28 comprehensive San Francisco Bay area regional public water
29 transit system consistent with Section 66540.24.

30 (b) The plan shall investigate and provide for terminal
31 locations throughout the San Francisco Bay area.

32 (c) The primary focus of the authority and the plan shall be to
33 provide new or expanded water transit services and related ground
34 transportation terminal access services that were not in operation
35 as of June 30, 1999. The authority shall seek to cooperatively
36 involve in the implementation, planning, and operations all
37 existing water transit services and related ground transportation
38 agencies in whose jurisdictions existing or planned water transit
39 terminals are located. The authority shall operate in good faith to
40 avoid negatively impacting water transit services and related

1 ground transportation terminal access services in existence as of
2 June 30, 1999. The authority may not request an allocation of any
3 funds that were available to the Metropolitan Transportation
4 Commission for allocation on June 30, 1999, including the
5 revenues dedicated from state-owned bridges to ferry services as
6 of June 30, 1999, and revenues derived continuously from sources
7 in the amounts and manner as specified in law in effect as of June
8 30, 1999, unless the request is for service transferred to the
9 authority for vessels in operation as of January 1, 2003.

10 (d) The authority may not operate water transit services that are
11 scheduled at the same time, from the same origin, and to the same
12 destination as publicly sponsored services, if those public services
13 were in operation as of June 30, 1999. The authority shall provide
14 ferry services at only those terminals in which docking rights have
15 been obtained with the consent of the owner of those rights.

16 (e) The authority shall negotiate in good faith, as described
17 below, with public sponsors of existing water transit services and
18 related ground transportation terminal access services to provide
19 services in the approved plan that would expand or augment
20 existing services in their service district, as defined by law, or in
21 plans of the Metropolitan Transportation Commission that existed
22 and were in effect as of June 30, 1999. Good faith negotiations
23 shall include all of the following steps:

24 (1) Notification by certified mail from the authority to the
25 public sponsor of existing water transit services or related ground
26 transportation terminal access services, hereafter referred to as the
27 notified agency, setting forth the specific services to be negotiated,
28 including performance standards and conditions and cost
29 reimbursement available according to the plan approved by the
30 Legislature.

31 (2) A period of 30 days from receipt of the notification required
32 under paragraph (1) for the notified agency to declare in writing
33 to the authority by certified mail their intent to negotiate in good
34 faith. If the notified agency does not so declare in writing to the
35 authority within 30 days, the notified agency shall be deemed not
36 interested in negotiating for the service and the authority may
37 announce a competitive bid process or take actions to directly
38 operate the service if the board of directors of the authority makes
39 a public finding that the action is in the public interest.

1 (3) A period of 90 days from declaration of intent to negotiate
2 by the notified agency for the authority and notified agency to
3 negotiate in good faith to reach agreement.

4 (4) The authority and notified agency, by mutual agreement,
5 may extend the period for good faith negotiations.

6 (5) Notwithstanding the procedure described in subdivision
7 (f), if at the end of 90 days or the mutually agreed-upon extension
8 period for negotiations, the authority and the notified agency have
9 not reached agreement for operation of the service, the authority
10 may announce a competitive bid process. The notified agency may
11 participate in that competitive bid process.

12 (f) If at the conclusion of the good faith negotiations process
13 there is a dispute between the authority and the notified agency as
14 to the impact of proposed new services on existing services, the
15 matter shall be submitted to the Metropolitan Transportation
16 Commission for resolution pursuant to Section 66516.5 of the
17 Government Code. The Metropolitan Transportation Commission
18 shall make a determination based on the demand model adopted
19 by the authority as to whether the proposed new service will have
20 a minor or major impact on services existing as of June 30, 1999.
21 A minor impact means an impact that reasonably and potentially
22 diverts less than 15 percent of the passengers using services that
23 were in existence as of June 30, 1999. A major impact means an
24 impact that reasonably and potentially diverts 15 percent or more
25 of the passengers using services that were in existence as of June
26 30, 1999. If the proposed new service will have a major impact, the
27 authority may not operate a water transit service in that location
28 without mutual agreement between the authority and the notified
29 agency. If the proposed new service will have a minor impact, the
30 authority may initiate service according to the procedures
31 contained in subdivision (e).

32 SEC. 4. Section 66540.22 of the Government Code is
33 amended to read:

34 66540.22. The San Francisco Bay Area Water Transit
35 Implementation and Operations Plan and updates to that plan shall
36 include all of the following:

37 (a) A detailed description of the high-speed water transit
38 system, including, but not limited to, all routes to be operated and
39 terminals to be served during the 10-year period following funding

1 of the authority. The description may include phasing of the routes
2 to be served and terminals to be constructed.

3 (b) An adopted demand model based upon ridership surveys
4 conducted throughout the region and an updated demand model
5 developed by the Metropolitan Transportation Commission.

6 (c) A water transit demand analysis, based upon the demand
7 model, of the demand forecast and cost-effectiveness for the water
8 transit system as a whole and for each corridor to be served.

9 (d) Architectural design criteria and standards for terminals
10 and landside facilities to meet the performance objectives and
11 operational criteria. The architectural design criteria and standards
12 for terminals shall be developed with input from the community
13 advisory committee and in consultation with local jurisdictions
14 that are prospective hosts of terminals for the water transit system.

15 (e) An intermodal plan to connect water transit services with
16 other modes of transportation and public transit, including, but not
17 limited to, cooperative arrangements with existing public transit
18 services and new intermodal services. The intermodal plan shall
19 be developed with input from the community advisory committee,
20 the technical advisory committee, and existing ground
21 transportation agencies.

22 (f) A feasibility analysis and proposal for the use of new
23 technologies and alternative fuels in marine engines and ground
24 transportation intermodal services, to the extent feasible, to
25 minimize air emission and water pollution impacts from the
26 system operations. The new technologies and alternative fuels
27 studied in the feasibility analysis and proposal for use in marine
28 engines shall include, but need not be limited to, natural gas, 100
29 percent biodiesel, hybrid solar in combination with electric or
30 wind power, and hybrid solar in combination with both solar and
31 wind power. The analysis shall be conducted in cooperation with
32 the Bay Area Air Quality Management District, the Regional
33 Water Quality Control Board, and the Bay Conservation and
34 Development Commission.

35 (g) A plan for monitoring air emissions and water impacts that
36 is mutually agreed upon by the authority and the entities listed in
37 subdivision (f).

38 (h) Design specifications for vessels, consistent with the
39 architectural design criteria and standards for the terminals and



landside facilities and the feasibility analysis to minimize air emission impacts.

(i) A plan for acquiring the requisite vessels, including, but not limited to, a proposed request for proposals, that incorporates the design specifications and seeks to support shipbuilding and fleet maintenance within the region to the extent possible.

(j) A plan for ensuring safety of vessel operations traveling on the San Francisco Bay. The plan shall be developed in cooperation with the California Maritime Academy and the United States Coast Guard. The authority shall implement the recommendations in its safety plan for enhancement of ferry safety, security, and waterways management. The authority shall ~~assist~~ *update* the Metropolitan Transportation ~~Commission in updating the~~ *Commission's* Regional Ferry Contingency Plan and ~~coordinating~~ *coordinate* the response of ferry operators for expanding water transit service in the San Francisco Bay area in the event of a regionwide disaster or disruption of service resulting in damage to area bridges or connecting freeways. *The authority shall consult with the Metropolitan Transportation Commission, which is the regional emergency transportation clearinghouse, in performing these functions.* The authority shall assist federal, state, and regional agencies in coordinating a response for other emergencies necessitating transportation of passengers by water.

(k) A systemwide regional programmatic environmental impact report and study of the plan, consistent with the requirements of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), and consistent with the substantive requirements of the National Environmental Policy Act of 1969 (42 U.S.C. Sec. 4321 et seq.). The report shall include an independent evaluation conducted by the Bay Area Air Quality Management District to assess the air quality impacts of the complete water transit system, as set forth in the San Francisco Bay Area Water Transit Implementation and Operations Plan, in comparison to transporting the same number of people over the same distance by motor vehicles and other modes of transportation. The air emissions standard for new vessels ~~recommended~~ *mandated* in the authority's plan shall ~~be at least 85 percent lower than~~ *exceed* the federal Environmental Protection Agency's *air quality* standards for Tier II 2007 marine engines, as

1 ~~is consistent with the standards~~ by at least 85 percent as
2 recommended in the authority's programmatic environmental
3 review impact report.

4 (l) An overall funding and financing plan based upon the
5 detailed description of the water transit system and demand
6 analysis, including, but not limited to, acquisition and construction
7 phasing.

8 (m) A projection of capital and cash-flow requirements,
9 including, but not limited to, costs for vessels and associated
10 maintenance facilities, terminals and associated land use costs, and
11 costs for feeder vehicles and associated maintenance facilities.

12 (n) A projection of operating costs and revenues, including, but
13 not limited to, projected patronage, fare structure, and fare
14 revenues for water transit and feeder services.

15 (o) A proposal for ongoing operating financial support.

16 (p) An analysis of the cost-effectiveness of the water transit
17 system in comparison to other options for mobility and disaster
18 relief and recovery. The analysis shall be prepared in cooperation
19 with the Metropolitan Transportation Commission.

20 SEC. 5. Section 66540.23 of the Government Code is
21 repealed.

22 SEC. 6. *Section 66540.29 is added to the Government Code,*
23 *to read:*

24 *66540.29. The authority shall dedicate at least one new*
25 *vessel, subject to engine manufacturers' warranties, to employ*
26 *biodiesel fuel (B20) to assess the practical application of using*
27 *renewable fuels. If further funding becomes available for this*
28 *application from regional, state, or federal funding sources, the*
29 *authority shall consider increasing use of biodiesel fuel to*
30 *demonstrate reduction in greenhouse gas emissions. The air*
31 *emission standards set by the authority in subdivision (k) of Section*
32 *66540.22 shall apply to the use of biodiesel fuel.*

33 SEC. 7. Section 66540.40 of the Government Code is
34 amended to read:

35 66540.40. The authority may acquire, own, lease, construct,
36 and operate water transit vessels and equipment, including, but not
37 limited to, real and personal property, and equipment, and any
38 facilities of the authority, except those facilities providing access
39 to units of the national park system.

40 ~~SEC. 7.~~

1 SEC. 8. Section 66540.72 of the Government Code is
2 amended to read:

3 66540.72. The authority shall be funded from funds derived
4 from proposed increases in tolls on state-owned toll bridges in the
5 bay area pursuant to the expenditure plan approved by the
6 Legislature in Senate Bill No. _____. ~~The authority shall be an~~
7 ~~eligible claimant for other transportation funding sources that are~~
8 ~~made available by state, local, regional, state, and federal agencies~~
9 ~~that are available to transit agencies and that are consistent with~~
10 ~~this title. The Metropolitan Transportation Commission shall~~
11 ~~consider the recommendations of the authority in the authority's~~
12 ~~final implementation and operations plan in programming formula~~
13 ~~and discretionary federal, state, and regional funds for ferry capital~~
14 ~~and operation costs.~~

15 916. *The authority shall not be an eligible claimant for local*
16 *transportation funds or state transportation assistance funds*
17 *pursuant to the Transportation Development Act (Chapter 4*
18 *(commencing with Section 99200) of Part 11 of Division 10 of the*
19 *Public Utilities Code).*

20 ~~SEC. 8.~~

21 SEC. 9. Notwithstanding Section 17610 of the Government
22 Code, if the Commission on State Mandates determines that this
23 act contains costs mandated by the state, reimbursement to local
24 agencies and school districts for those costs shall be made pursuant
25 to Part 7 (commencing with Section 17500) of Division 4 of Title
26 2 of the Government Code. If the statewide cost of the claim for
27 reimbursement does not exceed one million dollars (\$1,000,000),
28 reimbursement shall be made from the State Mandates Claims
29 Fund.